

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

KELLY CRAWFORD, IN HIS CAPACITY §
AS RECEIVER FOR TMTE, INC. a/k/a §
METALS.COM, CHASE METALS, INC., §
CHASE METALS, LLC, BARRICK §
CAPITAL, INC., LUCAS THOMAS ERB §
a/k/a LUCAS ASHER a/k/a LUKE ASHER, §
SIMON BATASHVILI, et al. §
§ Plaintiff, §
v. §
DAVID BLEEDEN, et al. §
§ Defendants. §
§

Civil Action No. 3:21-cv-02181-S

**RECEIVER'S SECOND MOTION FOR
EXTENSION OF TIME TO SERVE ALL DEFENDANTS**

Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff Kelly Crawford, in his capacity as Receiver for TMTE, INC. a/k/a METALS.COM, Chase Metals, Inc., Chase Metals, LLC, Barrick Capital, Inc., Lucas Thomas Erb a/k/a Lucas Asher, a/k/a Luke Asher, Simon Batashvili, et al., (“Receiver”) respectfully requests that the Court grant an extension of 60 days following termination of the stay in the *CFTC v. TMTE, Inc.*, 20-CV-2910-L (the “Underlying Lawsuit”), to serve a Summons and the Complaint on all Defendants¹. In support, the Receiver respectfully shows the Court as follows:

1. Pursuant to the Order Granting Plaintiff’s Emergency Ex Parte Motion for Statutory Restraining Order, Appointment of a Temporary Receiver, and Other Equitable Relief (the “SRO”) [Dkt. No. 16] and Consent Orders entered on October 14, 2020 [Dkt. Nos. 164-165] (collectively

¹ Defendants Kyle D. Sanna and Deric Scott Ned have signed waivers of service.

the “Receivership Orders”), on September 22, 2020, the Receiver was appointed in *CFTC v. TMTE, Inc.*, 20-CV-2910-L currently pending before this Court (the “Underlying Lawsuit”).

2. On September 13, 2021, the Receiver initiated this lawsuit, seeking to recover assets for the benefit of the Receivership Estate established by the Receivership Orders.

3. On October 5, 2021 in the Underlying Lawsuit, the Court entered an order staying all proceedings in the Underlying Lawsuit, including all activities by the Receiver, absent leave of court (the “Stay Order.”).²

4. In adherence to the Stay Order, the Receiver did not attempt to effect service on the Defendants in this case.

5. The initial ninety-day deadline imposed by Rule 4(m) to serve all Defendants expired on December 13, 2021.

6. On December 7, 2021, the Receiver requested additional time to serve all Defendants, seeking “an extension to 60 days beyond the date on which the Court terminates the stay in the Underlying Lawsuit to effect service on all Defendants in this case.” [Dkt. 9-1]. The Court granted that Motion on December 8, 2021 and extended the Receiver’s deadline to serve all Defendants to April 8, 2022. [Dkt.10] The Stay Order, however, remained in place.

7. On February 10, 2022, sua sponte, this Court dismissed this case and entered a judgment. [Dkt. 15 & 16]. The Receiver filed a Motion for New Trial [Dkt. 17] and on May 12, 2022, this Court vacated its Order dismissing this case and reinstated the case. [Dkt. 23].

8. The Stay Order was also lifted on May 12, 2022. [Underlying Lawsuit Dkt. 380].

9. The Stay Order, as well as the Court’s prior dismissal of this proceeding, create good cause pursuant to Rule 4(m) to extend the service deadline. Further, the Court has discretion

² See Dkt. 322 from the Underlying Lawsuit, attached as **Exhibit A**.

to extend the deadline even absent good cause. *Thrasher v. City of Amarillo*, 709 F.3d 509, 511 (5th Cir. 2013).

10. The extension will not cause prejudice to any party, nor is it requested for purposes of delay.

11. Accordingly, the Receiver requests an extension of 60 days from the date of any order regarding this Motion to effect service on all Defendants in this case.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests an order extending the deadline for service on all Defendants to and including 60 days from the date of any order regarding this Motion, and requests such other and further relief to which he may show himself entitled.

Respectfully submitted,

/s/ Charlene C. Koonce
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(d)(1)(B), as amended, no certificate of service is necessary, because this document is being filed with the Court's electronic-filing system.